

### **REMARKS/ARGUMENTS**

Claims 1, 6-15, 17-19, 21-30 and 32-38 are pending in the present application. In the Office Action, all claims were rejected. In response to the Office Action, claims 1 and 18 have been amended. No new matter has been added. Reconsideration of the pending claims as amended is respectfully requested.

As an initial matter, Applicants thank Examiner Woo for the helpful and courteous interview conducted on October 30, 2008. In addition to the Examiner and undersigned attorney of record, Jonathan Feuchtwang, representative of the assignee also participated in the telephone interview. During the interview, various potential claim amendments were discussed to overcome the present rejections.

#### **Claim Rejections - 35 U.S.C. § 112**

In the Office Action, claims 18, 19, 21-30 and 35-38 were rejected under 35 U.S.C. § 112 as failing to comply with the written description requirement. The Office Action indicated that the specification does not describe adjusting the length of the proximal and distal elements to "correspond to a length of the leaflets," as recited in claim 18. Applicants respectfully traverse the rejection in part and overcome the rejection in part for at least the following reasons.

The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement. M.P.E.P. § 2163.02. To satisfy the written description requirement, an applicant must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention as now claimed. An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. M.P.E.P. § 2163.02.

The application as filed clearly discloses extending the proximal and distal elements into position against valve leaflets so as to capture them (see e.g. paragraph 0097). Therefore, one of skill in the art would appreciate that the proximal and distal elements are adjusted to "correspond to a length of the leaflets," as recited by claim 18. Nevertheless, in order

to expedite prosecution of the present application, Applicants have removed this phrase from claim 18, thereby obviating the rejection.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 6-15, 17 and 32-34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bush et al. (U.S. Patent No. 5,282,845). Such rejections are overcome for at least the following reasons.

Independent claim 1 has been amended to recite in part that the at least two proximal elements in the deployed position are movable into engagement with the at least two distal elements in the deployed position. Support for this amendment may be found *inter alia* in Figs. 17D, 18C, 19B, 53 and 58, therefore no new matter has been added. Bush fails to teach or suggest this feature of claim 1.

Bush discloses an implantable defibrillator lead comprising a plurality of curvilinear electrodes which extend outwardly from the remainder of the lead (Abstract). The electrodes passively spring open after a constraining sheath is retracted. The electrodes do not engage one another in the deployed position. In fact, if the electrodes did engage one another in the deployed position, the device could be rendered inoperative for its intended purpose due to short circuits. Thus, once electrodes are deployed, they do not move relative to one another, unlike the claimed invention where the proximal and distal elements may be actively moved such that the at least two proximal elements in the deployed position are movable into engagement with the at least two distal elements in the deployed position.

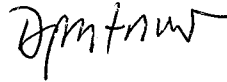
Because the cited reference fails to teach or suggest each and every element of the claimed invention, anticipation cannot be established under 35 U.S.C. § 102(b). Applicants respectfully request withdrawal of the rejection and allowance of claim 1 and the claims depending therefrom.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

The Examiner is invited to contact the undersigned at 650-326-2400 if a telephone conference would expedite prosecution of this application.

Respectfully submitted,



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